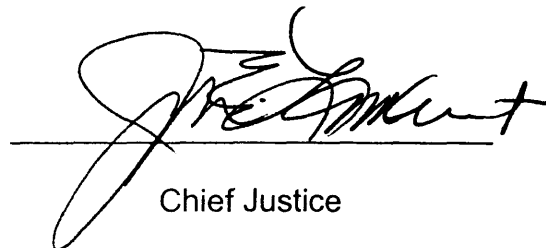


Supreme Court of Kentucky

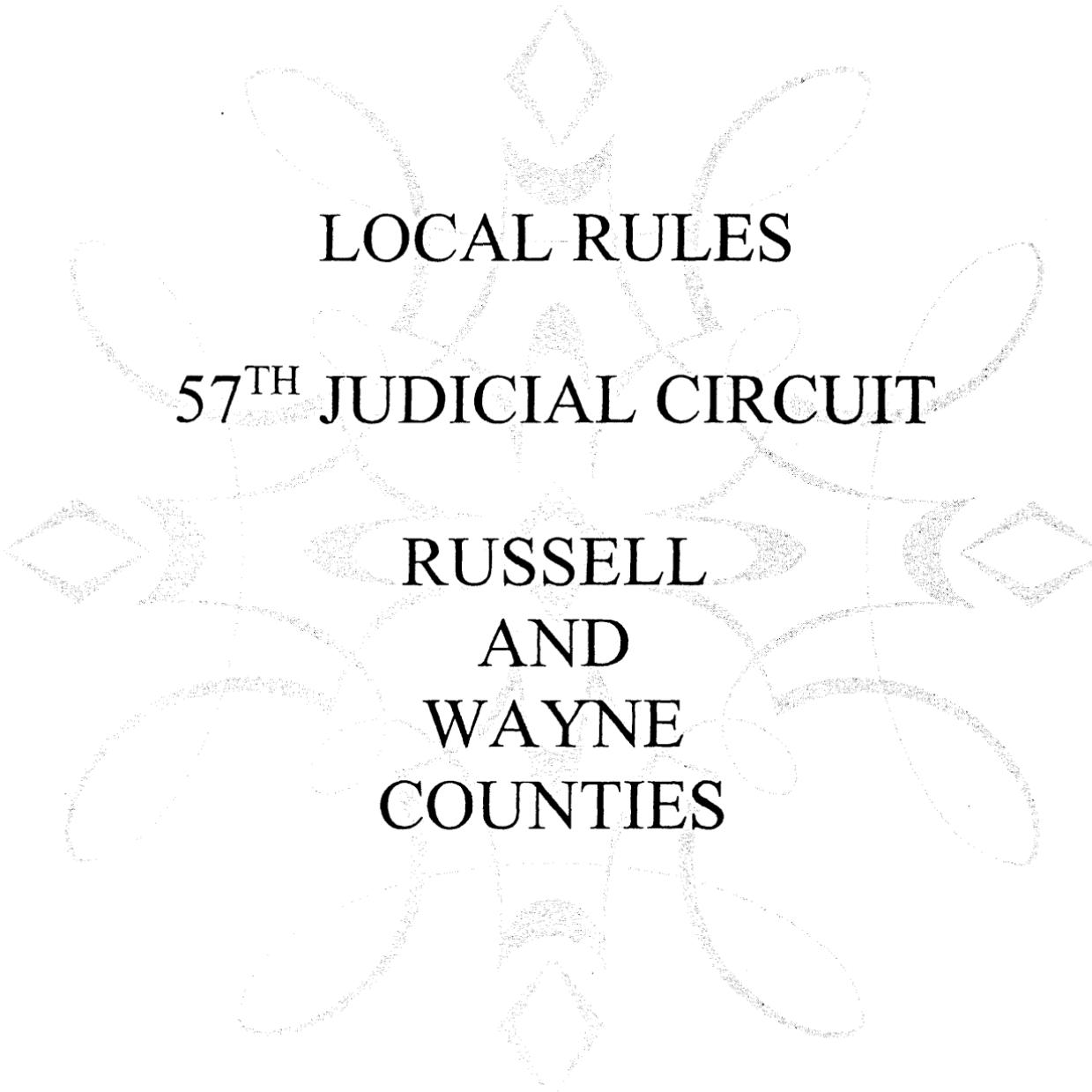
IN RE: Order Approving Amendments to the Local Rules for the 57th Judicial Circuit, Russell and Wayne Counties, and Amendments to the Domestic Violence Protocol for Russell and Wayne Counties

The amendments to the Local Rules for the 57th Judicial Circuit, Russell and Wayne Counties, are hereby approved. The amendments to the Domestic Violence Protocol pertaining to the court days for District and Circuit Court for Russell and Wayne Counties, are hereby approved.

ENTERED: April 21, 2003.



Chief Justice



LOCAL RULES
57TH JUDICIAL CIRCUIT

RUSSELL
AND
WAYNE
COUNTIES

COMMONWEALTH OF KENTUCKY
57TH JUDICIAL CIRCUIT
RUSSELL CIRCUIT COURT
WAYNE CIRCUIT COURT

JUDGE: HON. ROBERT L. WILSON

JUDGE #: 657188

SECRETARY: STEPHANIE FROST

LAW CLERK: MARK MCGAHA

PHONE: (270) 343-2131
(270) 343-6650

FAX: (270) 343-2604

MAILING ADDRESS: RUSSELL COUNTY COURTHOUSE
410 MONUMENT SQUARE, SUITE 205
P.O. BOX 10
JAMESTOWN, KENTUCKY 42629

RUSSELL CIRCUIT CLERK: TONY KERR
RUSSELL COUNTY COURTHOUSE
410 MONUMENT SQUARE, SUITE 203
JAMESTOWN, KENTUCKY 42629
(270) 343-2185 PHONE
(270) 343-5808 FAX

WAYNE CIRCUIT CLERK: RICHARD MORROW
WAYNE COUNTY COURTHOUSE
109 NORTH MAIN STREET
MONTICELLO, KENTUCKY 42633
(606) 348-5841 PHONE
(606) 348-4225 FAX

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COMMONWEALTH OF KENTUCKY
57TH JUDICIAL CIRCUIT
LOCAL RULES

CHAPTER I:

A. MOTION DAYS:

Russell County: CIVIL—
First Wednesday after second Monday
(9:00 a.m., c.s.t. all day)
First Tuesday after fourth Monday
(9:00 a.m., until noon)
CRIMINAL—
First Tuesday after second Monday
(9:00 a.m., c.s.t. all day)
First Tuesday after fourth Monday
(1:00 p.m., c.s.t.)

Wayne County: CIVIL—
Second and fourth Monday
(9:00 a.m., e.s.t. until noon)
CRIMINAL—
Second and fourth Monday
(1:00 p.m., e.s.t.)

B. MASTER COMMISSIONERS:

The Master Commissioner for the Russell Circuit Court is:

Hon. Robyn Hays
P.O. Box 636
Russell Springs, Kentucky 42642
(270) 866-4500 PHONE
(270) 866-4554 FAX

The Master Commissioner for the Wayne Circuit Court is:

Hon. John P. Jones, II
(also Domestic Relations Commissioner for Wayne County)

129 Michigan Avenue
Monticello, Kentucky 42633
(606) 348-9381 PHONE
(606) 348-5178 FAX

The Domestic Relation Commissioner for Russell County is:

Hon. Jeff Loy
P.O. Box 14
Jamestown, Kentucky 42629
(270) 343-5503 PHONE

C. DOMESTIC RELATIONS CASES:

(1) Circuit Clerks shall not file a Divorce Petition unless it is accompanied by the Vital Statistics Information Sheet signed by the attorney. The petitioner shall file a sworn disclosure statement within 15 days after the filing of the Petition for Dissolution of Marriage and it shall include an itemized listing of all marital property and its value, all debts and the amounts, all property claimed as non-marital and the basis of the claim, the income of each party and other information the petitioner may believe will assist in making a proper disposition of the property. Respondent may refute this in the Answer with a sworn counter disclosure statement or the petitioner's itemized listing will be accepted as agreed or stipulated. Nothing contained herein shall prevent an individual from proceeding with pro se representation and said individual proceeding pro se shall comply with the same provisions as if he or she were represented by an attorney.

(2) The Domestic Relations Commissioner shall hear all contested and uncontested matters arising from actions for the dissolution of marriage, child custody, support and maintenance under KRS Chapter 403, except that incarceration resulting from a finding of contempt shall be imposed only after a hearing before the Court at which time the Court shall permit additional evidence

and shall give the party charged with contempt an opportunity to purge himself or herself of such contempt. Proceedings for restraining orders and injunctions shall be heard only by the Court.

(3) The Domestic Relations Commissioner will preside over hearings on post-judgment motions in domestic relations matters to enforce or modify a final decree of child support, custody, or visitation and maintenance or disposition of marital property.

(4) Petitions for adoption or termination of parental rights will not be referred to the Domestic Relations Commissioner.

(5) The Domestic Relations Commissioner shall have the authority to make recommendations to the Judge regarding motions for temporary orders of custody, support and maintenance.

(6) The Domestic Relations Commissioner shall make final findings and recommendations forty-five (45) days from the date an action is submitted to the said Domestic Relations Commissioner.

(7) Prior to the filing of a motion to be heard before the Domestic Relations Commissioner, counsel for the moving party shall contact the Domestic Relations Commissioner to schedule a time for the hearing on the motion and inform the Domestic Relations Commissioner of the anticipated length of the hearing. The time, date, and place of the hearing shall be included in the notice served upon the opposing parties. If the matter to be heard is resolved prior to the time of a hearing, the Domestic Relations Commissioner shall be promptly notified.

(8) All post-judgment motions in domestic relations cases filed more than six months following the entry of the final decree should be accompanied by a Fifty Dollar (\$50.00) filing fee to be paid to the Clerk of the respective Circuit

Courts in the 57th Judicial Circuit.

(9) That all motions filed within this Circuit, Domestic Relations Division, shall be accompanied by a Forty Dollar (\$40.00) non-refundable filing fee, which shall be due and payable to the Commissioner who hears the motion, or, if the motion is not heard, to the docket of the Commissioner.

(10) That all motions pertaining to Domestic Relations matters shall be placed on the Domestic Relations Commissioners docket unless specifically placed upon the Circuit Judge's docket at the Judge's direction.

D. FEES OF THE DOMESTIC RELATIONS COMMISSIONER

The Domestic Relations Commissioner shall be entitled to compensation for matters heard by or referred to him as follows:

The Domestic Relations Commissioner shall receive a fee of \$15.00 for an uncontested divorce. This sum shall be paid to the Circuit Clerk upon final submission of the action. The fees of the Domestic Relations Commissioner will be treated as part of the court costs in final decrees. Uncontested divorces may be submitted by deposition or oral evidence.

For any hearing the commissioner shall receive a fee of \$60.00 per hour, assessed at a rate of \$15.00 for each quarter hour or part thereof. Such fees shall be paid through the office of Circuit Court Clerk to the commissioner and shall be due on the fifth working day following the conclusion of the hearing. No more than \$600.00 shall be assessed in any case regardless of the number and length of hearings unless recommended by the Circuit Judge and approved by the Chief Justice for extraordinary circumstances shown. If a case is reopened additional fees totaling not more than \$200.00 may be assessed. No more than \$15.00 shall be assessed in any uncontested divorce.

The Domestic Relations Commissioner may waive the collection of fees.

E. TIME ZONES: The 57th Judicial Circuit is comprised of Russell and Wayne Counties. Russell County is in the central time zone, Wayne County is in the eastern time zone. References are made in accordance.

F. SUBMISSION OF CASES TO THE COURT: Cases may be submitted to the Court pursuant to motion on Rule Day or at any time on a joint motion. In either event, the office of the Circuit Clerk shall be notified when a case is ready for the Court to take under submission.

G. SETTING OF CASES FOR TRIAL: Motions to set a case for trial may be made on any Rule Day and shall contain a certification that the case will be ready for trial by the trial date. If the case is set, and no party has filed a motion for continuance before 28 days prior to the trial date, the Court may impose sanctions resulting from any continuance thereafter granted.

H. PRE-TRIAL CONFERENCE: A party may move for a pre-trial conference at the time the case is set for trial or at any time from the setting of the trial date until 14 days from the date of trial by an appropriate motion on Rule Day.

I. PRE-TRIAL STATEMENTS:

(1) Provisions — Pre-trial compliance statements shall be filed by all parties 28 days before the trial date. All exhibits which may be used at trial shall be listed and copies, if feasible, shall be attached to the pre-trial statement. All exhibits which cannot be attached to the pre-trial statement shall be made available for inspection by opposing counsel at a convenient location designated in the pre-trial statement. All witnesses and expert witnesses who may be used at trial shall be listed, along with their addresses and telephone numbers. Also, as to each expert witness who has not been deposed, the pre-trial statement shall state the subject

matter on which the expert is expected to testify and shall state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

In jury trial actions, the parties shall submit jury instructions with the pre-trial statement. These instructions may be revised by the parties, with final jury instructions presented to the Court five (5) days prior to trial.

(2) Sanctions — Failure to file the pre-trial statement timely may result in the Court denying the use of any witness at trial other than the parties.

Failure to comply with the substantive provisions of this rule may result in the Court denying the use of any witnesses for whom the substantive provisions have not been met.

J. LABELING OF EXHIBITS: All exhibits intended for use at trial shall be labeled for identification purposes prior to trial.

K. TRIALS: All trials start promptly at 9:00 a.m..

L. SETTLED CASES: When any action which is set for trial is settled, the parties shall immediately notify the office of the Circuit Clerk of this fact.

M. COPIES TO BE SENT TO COURT REPORTER: A copy of any Notice of Appeal, Designation of Record or Order to Proceed in forma pauperis shall be sent to the Court Reporter or Circuit Clerk by the attorney filing same. Any party desiring a transcript shall notify the Court Reporter or Circuit Clerk in a timely manner of the date by which said transcript is needed.

N. SERVICE OF SUBPOENA BY LAW OFFICE PERSONNEL OR PARTY: To the extent that the sheriff would be compensated for similar service, service of subpoena by law office personnel or a party will be considered as costs when assessing costs.

CHAPTER II:

CRIMINAL PROCEEDINGS:

A. APPEARANCES AND ARRAIGNMENTS: Arraignment will be held on the first Rule Day following a Grand Jury session at 9:00 a.m. in all counties. The Court will order that a Grand Jury transcript be provided to the defendant and will issue a Discovery Order covering preliminary matters. This, of course, does not preclude the defendant from making any motion for further discovery at the criminal motion hour on any Rule Day.

B. REPRESENTATION IN CRIMINAL CASES: Once an attorney appears for a defendant in a criminal case, he or she shall not be allowed to withdraw as counsel thereafter, except upon a showing of extraordinary circumstances.

CHAPTER III:

CIVIL PROCEEDINGS — GENERAL:

A. APPLICABILITY OF OTHER CHAPTERS: The provisions of Chapter I above apply to all civil proceedings.

B. MOTION HOURS: Civil matters shall be assigned for times certain by the Circuit Court Clerk of the county where the motion is to be heard.

C. MOTION AND NOTICE:

(1) Filing and Service of Motion and Notice — Each motion to be made on a Rule Day, except uncontested matters under Chapter IV shall be filed in the office of the Circuit Clerk five (5) days preceding the Rule Day for which the motion is initially set. Each motion shall be served on opposing counsel or a party, if not represented by counsel, at least five (5) days preceding the Rule Day for which the motion is initially set if service is by mail. Service shall be effected five (5) days preceding the Rule Day for which the motion is initially set if service is effected by

delivery pursuant to CR 5.02.

(2) Scheduling Motions — Any attorney desiring to set a motion, shall contact the appropriate Circuit Court Clerk's Office. The attorney shall notify the Circuit Court Clerk's Office of the approximate time required to hear the motion. The attorney shall also send a copy of the motion to the Circuit Judge. Failure to comply with the above provisions shall result in the motion not being heard on the date and time specified.

Child support actions initiated by the County Attorney's Office shall be filed by the office of the County Attorney related to calculation of child support and noticed for 10:00 a.m. prevailing time.

(3) Filing and Service of Responsive Motions — Each responsive motion shall be filed in the office of the Circuit Clerk five (5) days preceding the Rule Day for which the original motion is initially set. Each responsive motion shall be served on opposing counsel or a party, if not represented by counsel, at least five (5) days preceding the Rule Day for which the original motion is initially set if service is effected pursuant to CR 5.02.

(4) Computation of Time for Filing and Service — Time for filing and service of motions and responsive motions shall be computed in accordance with CR 6.01.

D. FILING OF INTERROGATORIES AND REQUESTS FOR ADMISSION:

Pursuant to these local rules, all interrogatories and responses thereto and all requests for admission and answers or objections thereto shall be filed on record in the office of the Circuit Clerk.

E. TAKING DEPOSITIONS BY VIDEO TAPE: Either party may take any or all depositions by video tape, with said depositions to be taken pursuant to the terms

and conditions of the attached "Order Regarding Videotape Depositions".
However, only the cost of the stenographic transcript will be considered in
assessing costs.

COMMONWEALTH OF KENTUCKY
57TH JUDICIAL CIRCUIT

CIRCUIT COURT
CASE NO. _____

PLAINTIFF(S)
VS. ORDER FOR VIDEO DEPOSITION

DEFENDANT(S)

The Plaintiff is hereby granted permission to take any depositions for proof
by video. The video deposition to be taken shall be under the following protective
provisions:

(1) At the beginning of the taking of the deposition, the operator of the video
camera will focus on each person present at the taking of the deposition and such
person shall be identified to the jury. Thereafter, the camera will focus on the
witness only, whether the interrogation be direct or cross-examination.

(2) The camera will remain stationary at all times during the deposition and
will not "zoom" in or out on the witness or any other person present at the

deposition except those times during the deposition when the witness is displaying for the jury's viewing exhibits or other pieces of demonstrative proof that can only be fairly and reasonably seen on the video tape by use of the camera "zooming" in on said evidence. The purpose of this clause is so that the camera will not "zoom" in on the witness solely to give unfair or undue influence upon the words of the witness and does not apply to the "zooming in" for the other purposes described above.

(3) The deposition will be stenographically transcribed in addition to the videotape recording.

(4) The videotape itself will be available for the Court and any and all counsel to compare the stenographic transcript with the videotape transcript. If discrepancies appear between the stenographic transcript and the videotape recording, the discrepancies will be resolved by agreement of counsel or ruling of the Court if counsel cannot agree. The decision on the manner in which to handle the discrepancies insofar as the videotape is concerned will be included in the agreement of counsel or ruling of the Court.

(5) Testimony to which objections are sustained by the Court will be electronically erased - both as to picture and to sound - from the videotape. Objections which are overruled will be subject to further order of the Court as to whether the picture and sound of the objection itself shall be presented to the jury.

(6) Admissibility of the tape may be objected to by any counsel if a review of the finished tape reveals any technical errors giving undue emphasis to the testimony of the witness which would unfairly prejudice the side objecting; or if the general technical quality of the tape is so poor that its being viewed by the jury would be unfairly prejudicial to the side so objecting.

(7) Before presentation to the jury, the Court will instruct the jury that they give no more or no less weight to the testimony of the witness than if he were present in court testifying.

This _____ day of _____, _____

JUDGE, _____ CIRCUIT COURT

MEMORANDUM

TO: ATTORNEYS, CIRCUIT CLERKS,
ALL COURT PERSONNEL
FROM: JUDGE WILSON
SUBJECT: MOTION DAYS FOR 2003

RUSSELL COUNTY:

(TUES) JANUARY 14, 2003 (CRIM)
(WED) JANUARY 15, 2003 (CIVIL)
(TUES) JANUARY 28, 2003 (BOTH)
(TUES) FEBRUARY 11, 2003 (CRIM)
(WED) FEBRUARY 12, 2003 (CIVIL)
(TUES) FEBRUARY 25, 2003 (BOTH)
(TUES) MARCH 11, 2003 (CRIM)
(WED) MARCH 12, 2003 (CIVIL)
(TUES) MARCH 25, 2003 (BOTH)
(TUES) APRIL 15, 2003 (CRIM)
(WED) APRIL 16, 2003 (CIVIL)
(TUES) APRIL 29, 2003 (BOTH)
(TUES) MAY 13, 2002 (CRIM)
(WED) MAY 14, 2003 (CIVIL)
(WED) MAY 28, 2003 (BOTH)
(TUES) JUNE 10, 2003 (CRIM)
(WED) JUNE 11, 2003 (CIVIL)
(TUES) JUNE 24, 2003 (BOTH)
(TUES) JULY 15, 2003 (CRIM)
(WED) JULY 16, 2003 (CIVIL)
(TUES) JULY 29, 2003 (BOTH)
(TUES) AUGUST 12, 2003 (CRIM)
(WED) AUGUST 13, 2003 (CIVIL)
(TUES) AUGUST 26, 2003 (BOTH)
(TUES) SEPTEMBER 9, 2003 (CRIM)
(WED) SEPTEMBER 10, 2003 (CIVIL)
(TUES) SEPTEMBER 23, 2003 (BOTH)
(TUES) OCTOBER 14, 2003 (CRIM)
(WED) OCTOBER 15, 2003 (CIVIL)
(TUES) OCTOBER 28, 2003 (BOTH)
(WED) NOVEMBER 12, 2003 (CRIM)
(THURS) NOVEMBER 13, 2003 (CIVIL)
(TUES) NOVEMBER 25, 2003 (BOTH)
(TUES) DECEMBER 9, 2003 (CRIM)
(WED) DECEMBER 10, 2003 (CIVIL)
(TUES) DECEMBER 23, 2003 (BOTH)

WAYNE COUNTY:

JANUARY 13, 2003 (MON)
JANUARY 27, 2003 (MON)
FEBRUARY 10, 2003 (MON)
FEBRUARY 10, 2003 (MON)
FEBRUARY 24, 2003 (MON)
MARCH 10, 2003 (MON)
MARCH 24, 2003 (MON)
APRIL 14, 2003 (MON)
APRIL 28, 2003 (MON)
MAY 12, 2003 (MON)
MAY 27, 2003 (TUES)
JUNE 9, 2003 (MON)
JUNE 23, 2003 (MON)
JULY 14, 2003 (MON)
JULY 28, 2003 (MON)
AUGUST 11, 2003 (MON)
AUGUST 25, 2003 (MON)
SEPTEMBER 8, 2003 (MON)
SEPTEMBER 22, 2003 (MON)
OCTOBER 13, 2003 (MON)
OCTOBER 27, 2003 (MON)
NOVEMBER 10, 2003 (MON)
NOVEMBER 24, 2003 (MON)
DECEMBER 8, 2003 (MON)
DECEMBER 22, 2003 (MON)

**TWENTY-FOUR (24) HOUR ACCESSIBILITY TO
EMERGENCY PROTECTIVE ORDERS
AND LOCAL JOINT JURISDICTION
57th JUDICIAL CIRCUIT
Russell and Wayne Counties**

I. RE: TWENTY-FOUR (24) HOUR ACCESS

Pursuant to KRS 403.735 (3), the Court hereby sets out its procedures for twenty-four (24) hour accessibility to emergency protective orders (EPO's): After regular office hours, on weekends and holidays, the Circuit Clerk of each county and all of his sworn deputies; the County Jailer of each county and all of his sworn deputies; the County Sheriff of each county and all of his sworn deputies; the County Attorney of each county and all of his office staff; the chiefs of Police for the Cities of Jamestown, Russell Springs and Monticello and all sworn officers within those departments; and any Kentucky State Police Officers assigned to Russell and Wayne County, are hereby authorized to provide Domestic Violence Petitions to any person seeking same. Further, all said persons are hereby authorized to verify said Domestic Violence Petitions for the persons seeking same.

Any above authorized person who comes in receipt of a completed Domestic Violence Petition is authorized to administer an oath affirming the truthfulness of the contents of the petition, to the person completing same, and shall have said person sign their name to the said petition. The person so administering said oath shall also affix their signature and office position to said petition in witness and in verification of said oath.

Said sworn Domestic Violence Petition shall then immediately be presented, by the person verifying same, to any on-duty Sheriff or Deputy Sheriff in each county, any on-duty police officer of each of the cities listed above, or any on-duty Kentucky State Police Officer who shall then immediately present same to any District Judge, District Court Trial Commissioner or Circuit Judge who is found within the County.

In the even no Judge or Trial Commissioner can be found within Russell or Wayne County, Kentucky, the petition may be presented to any District Judge, District Court Trial Commissioner, or Circuit Judge in any surrounding county, who may sign and issue a Domestic Violence Emergency Protective Order if deemed appropriate.

II. RE: DOMESTIC VIOLENCE PROTOCOL

1. All domestic violence petitions shall be assigned a domestic violence “D” case number with the appropriate trailer number, if any, regardless of who (District Judge, Circuit Judge or Trial Commissioner) reviews the petition and orders the case filed.

A. This procedure shall apply to petitions filed during the pendency of dissolution of child custody proceeding.

B. If a verified motion is filed in the dissolution or child custody proceeding, the motion must be submitted on AOC 275.1, pursuant to KRS 403.730 (2), and shall be assigned a domestic violence “D” case number with the appropriate trailer number regardless of the fact that it was filed as a motion in the Circuit Court dissolution or child custody case.

C. The Judge number of the Judge reviewing the petition and ordering the case filed shall be entered on the case screen as the opening judge.

D. LINK entry for and EPO or DVO issued by any Judge or Trial Commissioner shall be made by the Deputy Clerk in District Court regularly assigned this responsibility.

2. Procedure for domestic violence petitions filed during regular office hours:

A. At the time the case is opened, the Deputy Clerk will check the index of circuit court cases to ascertain if a dissolution or child custody proceeding is pending.

1. **If no dissolution or child custody proceeding is pending** in circuit court the clerk shall deliver the petition to the District Judge, Trial Commissioner, or Circuit Judge if no District Judge or Trial Commissioner is available. If an EPO is issued, the clerk shall file the petition as a domestic violence “D” case and schedule a domestic violence hearing in the District Court. If there are cases involving the same parties that have been previously filed, assign this case to the District Judge who handled the previous case.

2. **If it is determined that a dissolution/child custody proceeding is pending** in Circuit Court, the Deputy Clerk shall deliver the petition to the Circuit Judge, or the District Judge or Trial Commissioner if the Circuit Judge is not available.

A. If an EPO is issued the clerk shall file the petition as a domestic violence “D” case and schedule a domestic violence hearing for the Circuit Court’s next motion

docket within 14 days of the issuance of the EPO.

B. The Deputy Clerk shall cross-reference the “D” case with the dissolution or child custody case. Additionally, if a domestic violence order is issued, upon entry, the Deputy Clerk shall place a copy of the EPO/DVO in the Circuit Court dissolution or child custody case file.

3. Procedure for domestic violence petitions filed after regular business hours and weekends. Upon receipt by the clerk of a verified domestic violence petition taken after regular business hours (after hours and weekends), and a domestic violence hearing has already been scheduled with the District Judge, the Deputy Clerk shall check the index of Circuit Court cases to ascertain if a dissolution or child custody proceeding is pending.

A. **If no dissolution or child custody proceeding is pending** in the Circuit Court, the clerk shall file the petition (and the protective order issued, if any) as a domestic violence “D” case in the District Court, regardless of which District Judge, Trial Commissioner or Circuit Judge ordered that the petition be filed; and, calendar the hearing by completing a scheduled event screen in SUSTAIN.

B. **If it is determined that a dissolution or child custody proceeding is pending** in Circuit Court, the Deputy Clerk shall notify the District Judge of the pendency of same. The District Judge shall conduct the scheduled domestic violence hearing; and, at that hearing **reassign** the “D” case to the Circuit Judge. The District Judge shall extend the emergency protective order, if warranted, until the matter can be heard by the Circuit Judge. If the Circuit Judge will be unable to hear the matter before the expiration of the emergency protective order’s twenty-eighth (28th) day, the District Judge shall issue a domestic violence order, if warranted, which is effective only until the matter can be heard by the Circuit Judge. (The DVO shall not be termed *temporary* as that may prevent entry into the LINK system. The DVO should be issued for a number of days *certain* which shall be determined by the Circuit Judge’s next available date for a hearing on the matter. At that hearing the Circuit Judge shall amend the DVO, if appropriate, for an additional period of time not to exceed 36 months).

4. The Domestic Violence session of the District Court is scheduled as follows:

Russell — First, Second, Third and Fourth Mondays

Wayne — First, Second, Third and Fourth Tuesday

The Motion Day for the Circuit Court is scheduled for:

Russell — First Wednesday after Second Monday
First Tuesday after Fourth Monday

Wayne — Second and Fourth Monday of each month

5. If while a Domestic Violence matter is pending in the District Court, a dissolution or child custody proceeding is filed in the Circuit Court, the presiding District Judge may in his discretion enter or continue such protective orders and process deemed necessary and reassign the matter for final hearing to the Circuit Judge.

6. CONTEMPT PROCEEDINGS

If a District Judge has issued the EPO or DVO and no dissolution or child custody case is pending, the District Judge will hear any contempt proceeding for violation of condition(s) of an Emergency Protective Order or Domestic Violence Order.

If the domestic violence case has been assigned to the Circuit Judge due to a *pending* dissolution or child custody case, and the Circuit Judge has issued or modified the EPO or DVO, the Circuit Judge will hear any contempt proceeding for violation of condition(s) of an Emergency Protective Order or Domestic Violence Order. However, any contempt proceeding occurring after a final decree in dissolution case will be heard by a District Judge.

7. **If it is discovered that a dissolution or child custody proceeding is pending in another county in the Commonwealth** the presiding District Judge may, in his discretion, retain the matter OR transfer the matter to the Circuit Judge of the county in which the dissolution or child-custody case is pending.

8. CRIMINAL CHARGES

If, pursuant to KRS 403.760, a peace officer arrests a respondent for violation of a protective order; or, a criminal warrant or summons is issued for a respondent for violation of a protective order, the District Court shall arraign and proceed with trial and final disposition for the criminal offense of violating an EPO or DVO, even if the order was issued or was modified by the Circuit Court. Civil proceedings and criminal proceedings for violation of a protective order *for the same violation of a protective order* are mutually exclusive; therefore, the criminal case should never be dismissed. If this occurs, the case cannot be heard as civil contempt. KRS 403.760 (5) states that “[o]nce

either proceeding has been initiated the other shall not be undertaken regardless of the outcome of the original proceeding.”

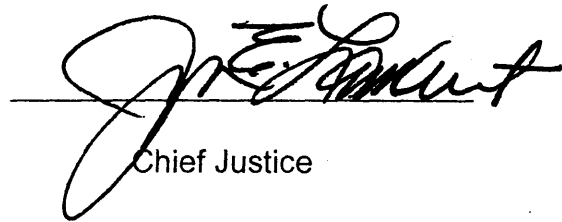
Robert L. Wilson
Judge, 57th Judicial Circuit

Supreme Court of Kentucky

**IN RE: Order Approving the Local Rules of Practice and Twenty-Four (24)
 Hour Accessibility to Emergency Protective Orders and Local Joint
 Jurisdiction for the 57th Judicial Circuit, Russell and Wayne
 Counties**

The Local Rules of Practice and Twenty-Four (24) Hour Accessibility to
Emergency Protective Orders and Local Joint Jurisdiction for the 57th Judicial Circuit,
Russell and Wayne Counties, are hereby approved by the undersigned.

ENTERED: April 30, 2002.



Chief Justice



COMMONWEALTH OF KENTUCKY

57TH JUDICIAL CIRCUIT

LOCAL RULES



COMMONWEALTH OF KENTUCKY
57TH JUDICIAL CIRCUIT
RUSSELL CIRCUIT COURT
WAYNE CIRCUIT COURT

JUDGE: HON. ROBERT L. WILSON

JUDGE #: 657188

SECRETARY: STEPHANIE FROST

LAW CLERK:

PHONE: (270) 343-2131

FAX: (270) 343-5808

MAILING ADDRESS: P.O. BOX 10
JAMESTOWN, KENTUCKY 42629

RUSSELL CIRCUIT CLERK: TONY KERR
RUSSELL COUNTY COURTHOUSE
410 MONUMENT SQUARE, SUITE 203
JAMESTOWN, KENTUCKY 42629
(270) 343-2185 PHONE
(270) 343-5808 FAX

WAYNE CIRCUIT CLERK: RICHARD MORROW
WAYNE COUNTY COURTHOUSE
109 NORTH MAIN STREET
MONTICELLO, KENTUCKY 42633
(606) 348-5841 PHONE
(606) 348-4225 FAX

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COMMONWEALTH OF KENTUCKY
57TH JUDICIAL CIRCUIT
LOCAL RULES

CHAPTER I:

A. MOTION DAYS:

Russell County: First and Third Thursdays

Wayne County: First and Third Tuesdays

B. MASTER COMMISSIONERS:

The Master Commissioner for the Russell Circuit Court is:

Hon. M. Gail Wilson
One Monument Square
P.O. Box 25
Jamestown, Kentucky 42629
(270) 343-3101 PHONE
(270) 343-2355 FAX

The Master Commissioner for the Wayne Circuit Court is:

Hon. John P. Jones, II
(also Domestic Relations Commissioner for 57th Judicial Circuit)
129 Michigan Avenue
Monticello, Kentucky 42633
(606) 348-9381 PHONE
(606) 348-5178 FAX

C. DOMESTIC RELATIONS CASES:

(1) Circuit Clerks shall not file a Divorce Petition unless it is accompanied by the Vital Statistics Information Sheet signed by the attorney. The petitioner shall file a sworn disclosure statement within 15 days after the filing of the Petition for Dissolution of Marriage and it shall include an itemized listing of all

marital property and its value, all debts and the amounts, all property claimed as non-marital and the basis of the claim, the income of each party and other information the petitioner may believe will assist in making a proper disposition of the property. Respondent may refute this in the Answer with a sworn counter disclosure statement or the petitioner's itemized listing will be accepted as agreed or stipulated. Nothing contained herein shall prevent an individual from proceeding with pro se representation and said individual proceeding pro se shall comply with the same provisions as if he or she were represented by an attorney.

(2) The Domestic Relations Commissioner shall hear all contested and uncontested matters arising from actions for the dissolution of marriage, child custody, support and maintenance under KRS Chapter 403, except that incarceration resulting from a finding of contempt shall be imposed only after a hearing before the Court at which time the Court shall permit additional evidence and shall give the party charged with contempt an opportunity to purge himself or herself of such contempt. Proceedings for restraining orders and injunctions shall be heard only by the Court.

(3) The Domestic Relations Commissioner will preside over hearings on post-judgment motions in domestic relations matters to enforce or modify a final decree of child support, custody, or visitation and maintenance or disposition of marital property.

(4) Petitions for adoption or termination of parental rights will not be referred to the Domestic Relations Commissioner.

(5) The Domestic Relations Commissioner shall have the authority to make recommendations to the Judge regarding motions for temporary orders of custody, support and maintenance.

(6) The Domestic Relations Commissioner shall make final findings and recommendations forty-five (45) days from the date an action is submitted to the said Domestic Relations Commissioner.

(7) Prior to the filing of a motion to be heard before the Domestic Relations Commissioner, counsel for the moving party shall contact the Domestic Relations Commissioner to schedule a time for the hearing on the motion and inform the Domestic Relations Commissioner of the anticipated length of the hearing. The time, date, and place of the hearing shall be included in the notice served upon the opposing parties. If the matter to be heard is resolved prior to the time of a hearing, the Domestic Relations Commissioner shall be promptly notified.

(8) All post-judgment motions in domestic relations cases filed more than six months following the entry of the final decree should be accompanied by a Fifty Dollar (\$50.00) filing fee to be paid to the Clerk of the respective Circuit Courts in the 57th Judicial Circuit.

(9) That all motions filed within this Circuit, Domestic Relations Division, shall be accompanied by a Forty Dollar (\$40.00) non-refundable filing fee, which shall be due and payable to the Commissioner who hears the motion, or, if the motion is not heard, to the docket of the Commissioner.

(10) That all motions pertaining to Domestic Relations matters shall be placed on the Domestic Relations Commissioners docket unless specifically placed upon the Circuit Judge's docket at the Judge's direction.

D. FEES OF THE DOMESTIC RELATIONS COMMISSIONER

The Domestic Relations Commissioner shall be entitled to compensation for matters heard by or referred to him as follows:

The Domestic Relations Commissioner shall receive a fee of \$15.00 for an

uncontested divorce. This sum shall be paid to the Circuit Clerk upon final submission of the action. The fees of the Domestic Relations Commissioner will be treated as part of the court costs in final decrees. Uncontested divorces may be submitted by deposition or oral evidence.

For any hearing the commissioner shall receive a fee of \$60.00 per hour, assessed at a rate of \$15.00 for each quarter hour or part thereof. Such fees shall be paid through the office of Circuit Court Clerk to the commissioner and shall be due on the fifth working day following the conclusion of the hearing. No more than \$600.00 shall be assessed in any case regardless of the number and length of hearings unless recommended by the Circuit Judge and approved by the Chief Justice for extraordinary circumstances shown. If a case is reopened additional fees totaling not more than \$200.00 may be assessed. No more than \$15.00 shall be assessed in any uncontested divorce.

The Domestic Relations Commissioner may waive the collection of fees.

E. TIME ZONES: The 57th Judicial Circuit is comprised of Russell and Wayne Counties. Russell County is in the central time zone, Wayne County is in the eastern time zone. References are made in accordance.

F. SUBMISSION OF CASES TO THE COURT: Cases may be submitted to the Court pursuant to motion on Rule Day or at any time on a joint motion. In either event, the office of the Circuit Clerk shall be notified when a case is ready for the Court to take under submission.

G. SETTING OF CASES FOR TRIAL: Motions to set a case for trial may be made on any Rule Day and shall contain a certification that the case will be ready for trial by the trial date. If the case is set, and no party has filed a motion for continuance before 28 days prior to the trial date, the Court may impose sanctions

resulting from any continuance thereafter granted.

H. PRE-TRIAL CONFERENCE: A party may move for a pre-trial conference at the time the case is set for trial or at any time from the setting of the trial date until 14 days from the date of trial by an appropriate motion on Rule Day.

I. PRE-TRIAL STATEMENTS:

(1) Provisions — Pre-trial compliance statements shall be filed by all parties 28 days before the trial date. All exhibits which may be used at trial shall be listed and copies, if feasible, shall be attached to the pre-trial statement. All exhibits which cannot be attached to the pre-trial statement shall be made available for inspection by opposing counsel at a convenient location designated in the pre-trial statement. All witnesses and expert witnesses who may be used at trial shall be listed, along with their addresses and telephone numbers. Also, as to each expert witness who has not been deposed, the pre-trial statement shall state the subject matter on which the expert is expected to testify and shall state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

In jury trial actions, the parties shall submit jury instructions with the pre-trial statement. These instructions may be revised by the parties, with final jury instructions presented to the Court five (5) days prior to trial.

(2) Sanctions — Failure to file the pre-trial statement timely may result in the Court denying the use of any witness at trial other than the parties.

Failure to comply with the substantive provisions of this rule may result in the Court denying the use of any witnesses for whom the substantive provisions have not been met.

J. LABELING OF EXHIBITS: All exhibits intended for use at trial shall be

labeled for identification purposes prior to trial.

K. TRIALS: All trials start promptly at 9:00 a.m..

L. SETTLED CASES: When any action which is set for trial is settled, the parties shall immediately notify the office of the Circuit Clerk of this fact.

M. COPIES TO BE SENT TO COURT REPORTER: A copy of any Notice of Appeal, Designation of Record or Order to Proceed in forma pauperis shall be sent to the Court Reporter or Circuit Clerk by the attorney filing same. Any party desiring a transcript shall notify the Court Reporter or Circuit Clerk in a timely manner of the date by which said transcript is needed.

N. SERVICE OF SUBPOENA BY LAW OFFICE PERSONNEL OR PARTY: To the extent that the sheriff would be compensated for similar service, service of subpoena by law office personnel or a party will be considered as costs when assessing costs.

CHAPTER II:

CRIMINAL PROCEEDINGS:

A. APPEARANCES AND ARRAIGNMENTS: Arraignment will be held on the first Rule Day following a Grand Jury session at 9:00 a.m. in all counties. The Court will order that a Grand Jury transcript be provided to the defendant and will issue a Discovery Order covering preliminary matters. This, of course, does not preclude the defendant from making any motion for further discovery at the criminal motion hour on any Rule Day.

B. MOTION HOURS: Motion Hours for criminal matters shall begin at 9:00 a.m. in all counties on Rule Days.

C. REPRESENTATION IN CRIMINAL CASES: Once an attorney appears for a defendant in a criminal case, he or she shall not be allowed to withdraw as counsel

thereafter, except upon a showing of extraordinary circumstances.

CHAPTER III:

CIVIL PROCEEDINGS — GENERAL:

A. APPLICABILITY OF OTHER CHAPTERS: The provisions of Chapter I above apply to all civil proceedings.

B. MOTION HOURS: Motion Hour for all civil matters shall be assigned for times certain by the Circuit Court Clerk of the county where the motion is to be heard.

C. MOTION AND NOTICE:

(1) Filing and Service of Motion and Notice — Each motion to be made on a Rule Day, except uncontested matters under Chapter IV shall be filed in the office of the Circuit Clerk five (5) days preceding the Rule Day for which the motion is initially set. Each motion shall be served on opposing counsel or a party, if not represented by counsel, at least five (5) days preceding the Rule Day for which the motion is initially set if service is by mail. Service shall be effected five (5) days preceding the Rule Day for which the motion is initially set if service is effected by delivery pursuant to CR 5.02.

(2) Scheduling Motions — Any attorney desiring to set a motion, shall contact the appropriate Circuit Court Clerk's Office. The attorney shall notify the Circuit Court Clerk's Office of the approximate time required to hear the motion. The attorney shall also send a copy of the motion to the Circuit Judge. Failure to comply with the above provisions shall result in the motion not being heard on the date and time specified.

Child support actions initiated by the County Attorney's Office shall be filed by the office of the County Attorney related to calculation of child support

and noticed for 10:00 a.m. prevailing time.

(3) Filing and Service of Responsive Motions — Each responsive motion shall be filed in the office of the Circuit Clerk five (5) days preceding the Rule Day for which the original motion is initially set. Each responsive motion shall be served on opposing counsel or a party, if not represented by counsel, at least five (5) days preceding the Rule Day for which the original motion is initially set if service is effected pursuant to CR 5.02.

(4) Computation of Time for Filing and Service — Time for filing and service of motions and responsive motions shall be computed in accordance with CR 6.01.

D. FILING OF INTERROGATORIES AND REQUESTS FOR ADMISSION:

Pursuant to these local rules, all interrogatories and responses thereto and all requests for admission and answers or objections thereto shall be filed on record in the office of the Circuit Clerk.

E. TAKING DEPOSITIONS BY VIDEO TAPE: Either party may take any or all depositions by video tape, with said depositions to be taken pursuant to the terms and conditions of the attached “Order Regarding Videotape Depositions”.

However, only the cost of the stenographic transcript will be considered in assessing costs.

COMMONWEALTH OF KENTUCKY
57TH JUDICIAL CIRCUIT

CIRCUIT COURT
CASE NO. _____

PLAINTIFF(S)

VS.

ORDER FOR VIDEO DEPOSITION

DEFENDANT(S)

The Plaintiff is hereby granted permission to take any depositions for proof by video. The video deposition to be taken shall be under the following protective provisions:

(1) At the beginning of the taking of the deposition, the operator of the video camera will focus on each person present at the taking of the deposition and such person shall be identified to the jury. Thereafter, the camera will focus on the witness only, whether the interrogation be direct or cross-examination.

(2) The camera will remain stationary at all times during the deposition and will not “zoom” in or out on the witness or any other person present at the deposition except those times during the deposition when the witness is displaying for the jury’s viewing exhibits or other pieces of demonstrative proof that can only be fairly and reasonably seen on the video tape by use of the camera “zooming” in on said evidence. The purpose of this clause is so that the camera will not “zoom”

in on the witness solely to give unfair or undue influence upon the words of the witness and does not apply to the “zooming in” for the other purposes described above.

(3) The deposition will be stenographically transcribed in addition to the videotape recording.

(4) The videotape itself will be available for the Court and any and all counsel to compare the stenographic transcript with the videotape transcript. If discrepancies appear between the stenographic transcript and the videotape recording, the discrepancies will be resolved by agreement of counsel or ruling of the Court if counsel cannot agree. The decision on the manner in which to handle the discrepancies insofar as the videotape is concerned will be included in the agreement of counsel or ruling of the Court.

(5) Testimony to which objections are sustained by the Court will be electronically erased - both as to picture and to sound - from the videotape. Objections which are overruled will be subject to further order of the Court as to whether the picture and sound of the objection itself shall be presented to the jury.

(6) Admissibility of the tape may be objected to by any counsel if a review of the finished tape reveals any technical errors giving undue emphasis to the testimony of the witness which would unfairly prejudice the side objecting; or if the general technical quality of the tape is so poor that its being viewed by the jury would be unfairly prejudicial to the side so objecting.

(7) Before presentation to the jury, the Court will instruct the jury that they give no more or no less weight to the testimony of the witness than if he were present in court testifying.

This _____ day of _____, _____

JUDGE, _____ CIRCUIT COURT

**TWENTY-FOUR (24) HOUR ACCESSIBILITY TO
EMERGENCY PROTECTIVE ORDERS
AND LOCAL JOINT JURISDICTION
57th JUDICIAL CIRCUIT
Russell and Wayne Counties**

I. RE: TWENTY-FOUR (24) HOUR ACCESS

Pursuant to KRS 403.735 (3), the Court hereby sets out its procedures for twenty-four (24) hour accessibility to emergency protective orders (EPO's): After regular office hours, on weekends and holidays, the Circuit Clerk of each county and all of his sworn deputies; the County Jailer of each county and all of his sworn deputies; the County Sheriff of each county and all of his sworn deputies; the County Attorney of each county and all of his office staff; the chiefs of Police for the Cities of Jamestown, Russell Springs and Monticello and all sworn officers within those departments; and any Kentucky State Police Officers assigned to Russell and Wayne County, are hereby authorized to provide Domestic Violence Petitions to any person seeking same. Further, all said persons are hereby authorized to verify said Domestic Violence Petitions for the persons seeking same.

Any above authorized person who comes in receipt of a completed Domestic Violence Petition is authorized to administer an oath affirming the truthfulness of the contents of the petition, to the person completing same, and shall have said person sign their name to the said petition. The person so administering said oath shall also affix their signature and office position to said petition in witness and in verification of said oath.

Said sworn Domestic Violence Petition shall then immediately be presented, by the person verifying same, to any on-duty Sheriff or Deputy Sheriff in each county, any on-duty police officer of each of the cities listed above, or any on-duty Kentucky State Police Officer who shall then immediately present same to any District Judge, District Court Trial Commissioner or Circuit Judge who is found within the County.

In the even no Judge or Trial Commissioner can be found within Russell or Wayne County, Kentucky, the petition may be presented to any District Judge, District Court Trial Commissioner, or Circuit Judge in any surrounding county, who may sign and issue a Domestic Violence Emergency Protective Order if deemed appropriate.

II. RE: DOMESTIC VIOLENCE PROTOCOL

1. All domestic violence petitions shall be assigned a domestic violence “D” case number with the appropriate trailer number, if any, regardless of who (District Judge, Circuit Judge or Trial Commissioner) reviews the petition and orders the case filed.

A. This procedure shall apply to petitions filed during the pendency of dissolution of child custody proceeding.

B. If a verified motion is filed in the dissolution or child custody proceeding, the motion must be submitted on AOC 275.1, pursuant to KRS 403.730 (2), and shall be assigned a domestic violence “D” case number with the appropriate trailer number regardless of the fact that it was filed as a motion in the Circuit Court dissolution or child custody case.

C. The Judge number of the Judge reviewing the petition and ordering the case filed shall be entered on the case screen as the opening judge.

D. LINK entry for and EPO or DVO issued by any Judge or Trial Commissioner shall be made by the Deputy Clerk in District Court regularly assigned this responsibility.

2. Procedure for domestic violence petitions filed during regular office hours:

A. At the time the case is opened, the Deputy Clerk will check the index of circuit court cases to ascertain if a dissolution or child custody proceeding is pending.

1. **If no dissolution or child custody proceeding is pending** in circuit court the clerk shall deliver the petition to the District Judge, Trial Commissioner, or Circuit Judge if no District Judge or Trial Commissioner is available. If an EPO is issued, the clerk shall file the petition as a domestic violence “D” case and schedule a domestic violence hearing in the District Court. If there are cases involving the same parties that have been previously filed, assign this case to the District Judge who handled the previous case.

2. **If it is determined that a dissolution/child custody proceeding is pending** in Circuit Court, the Deputy Clerk shall deliver the petition to the Circuit Judge, or the District Judge or Trial Commissioner if the Circuit Judge is not available.

A. If an EPO is issued the clerk shall file the petition as a domestic violence “D” case and schedule a domestic violence hearing for the Circuit Court’s next motion

docket within 14 days of the issuance of the EPO.

B. The Deputy Clerk shall cross-reference the “D” case with the dissolution or child custody case. Additionally, if a domestic violence order is issued, upon entry, the Deputy Clerk shall place a copy of the EPO/DVO in the Circuit Court dissolution or child custody case file.

3. Procedure for domestic violence petitions filed after regular business hours and weekends. Upon receipt by the clerk of a verified domestic violence petition taken after regular business hours (after hours and weekends), and a domestic violence hearing has already been scheduled with the District Judge, the Deputy Clerk shall check the index of Circuit Court cases to ascertain if a dissolution or child custody proceeding is pending.

A. **If no dissolution or child custody proceeding is pending** in the Circuit Court, the clerk shall file the petition (and the protective order issued, if any) as a domestic violence “D” case in the District Court, regardless of which District Judge, Trial Commissioner or Circuit Judge ordered that the petition be filed; and, calendar the hearing by completing a scheduled event screen in SUSTAIN.

B. **If it is determined that a dissolution or child custody proceeding is pending** in Circuit Court, the Deputy Clerk shall notify the District Judge of the pendency of same. The District Judge shall conduct the scheduled domestic violence hearing; and, at that hearing **reassign** the “D” case to the Circuit Judge. The District Judge shall extend the emergency protective order, if warranted, until the matter can be heard by the Circuit Judge. If the Circuit Judge will be unable to hear the matter before the expiration of the emergency protective order’s twenty-eighth (28th) day, the District Judge shall issue a domestic violence order, if warranted, which is effective only until the matter can be heard by the Circuit Judge. (The DVO shall not be termed *temporary* as that may prevent entry into the LINK system. The DVO should be issued for a number of days *certain* which shall be determined by the Circuit Judge’s next available date for a hearing on the matter. At that hearing the Circuit Judge shall amend the DVO, if appropriate, for an additional period of time not to exceed 36 months).

4. The Domestic Violence session of the District Court is scheduled as follows:

Russell — First, Second, Third and Fourth Mondays

Wayne — First, Third and Fourth Mondays and Second Tuesdays

The Motion Day for the Circuit Court is scheduled for:

Russell — First and Third Thursdays of each month.

Wayne — First and Third Tuesdays of each month.

5. If while a Domestic Violence matter is pending in the District Court, a dissolution or child custody proceeding is filed in the Circuit Court, the presiding District Judge may in his discretion enter or continue such protective orders and process deemed necessary and reassign the matter for final hearing to the Circuit Judge.

6. CONTEMPT PROCEEDINGS

If a District Judge has issued the EPO or DVO and no dissolution or child custody case is pending, the District Judge will hear any contempt proceeding for violation of condition(s) of an Emergency Protective Order or Domestic Violence Order.

If the domestic violence case has been assigned to the Circuit Judge due to a *pending* dissolution or child custody case, and the Circuit Judge has issued or modified the EPO or DVO, the Circuit Judge will hear any contempt proceeding for violation of condition(s) of an Emergency Protective Order or Domestic Violence Order. However, any contempt proceeding occurring after a final decree in dissolution case will be heard by a District Judge.

7. **If it is discovered that a dissolution or child custody proceeding is pending in another county in the Commonwealth** the presiding District Judge may, in his discretion, retain the matter OR transfer the matter to the Circuit Judge of the county in which the dissolution or child-custody case is pending.

8. CRIMINAL CHARGES

If, pursuant to KRS 403.760, a peace officer arrests a respondent for violation of a protective order; or, a criminal warrant or summons is issued for a respondent for violation of a protective order, the District Court shall arraign and proceed with trial and final disposition for the criminal offense of violating an EPO or DVO, even if the order was issued or was modified by the Circuit Court. Civil proceedings and criminal proceedings for violation of a protective order *for the same violation of a protective order* are mutually exclusive; therefore, the criminal case should never be dismissed. If this occurs, the case cannot be heard as civil contempt. KRS 403.760 (5) states that “[o]nce either proceeding has been initiated the other shall not be undertaken regardless of the

outcome of the original proceeding.”

Robert L. Wilson
Judge, 57th Judicial Circuit